

13 April 1973

**MEMORANDUM FOR CAPTAIN GORDON SCHULLER, USN  
ISA/EA&PR****SUBJECT: Micronesian Negotiations - Incorporated-Unincorporated  
Territories of the United States.**

1. With respect to the next anticipated stage in the Micronesian negotiations concern will be raised whether Micronesia should be assimilated within the United States - or alternatively the Marianas - as an incorporated territory or an unincorporated territory. By way of preliminary observations we suggest close attention be given to the distinction between the two.
2. Under United States practices Congressional authority in both cases is absolute. Under those same practices however the distinction is of greater importance concerning the civil or private rights of the inhabitants. The power of the United States Congress through its legislation is subject to relatively few limitations for the unincorporated territories. The power is subject to constitutional limitations if the territory is incorporated.
3. From a procedural point of view a territory may be incorporated only where the Congress of the United States has taken legislative action to that end. Where the United States assimilates territories through Executive agreement and therefore without the concurrence of the Congress the territory would or might be joined on an unincorporated basis.
4. These distinctions are significant in the very real sense that the United States negotiating position at this time is based on proposals that will fully protect the inhabitants of Micronesia as to

their private and civil rights. The conclusions must therefore be reached that steps be taken to have Micronesia or the Marianas assimilated within the United States as an incorporated territory.

**SIGNED**

**Harry H. Almond, Jr.**  
**Office of Assistant General Counsel**  
**International Affairs**

**cc: Mr. Phillip E. Barringer**  
**Director, FMRA, ISA, OSD**  
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